

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.27206 of 2005

Dated 22nd December 2005

Between:

P.Anil Kumar

...Petitioner

and

The Collector & District Magistrate, Kurnool,

And another

...Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 27206 of 2005

ORDER:

The petitioner was issued a certificate by the Mandal Revenue Officer, Alur, on 15.11.2002, certifying that he belongs to Scheduled Tribe. The Commissioner of Tribal Welfare, Hyderabad, the 2nd respondent herein, doubted the genuineness of the claim of the petitioner, as to his social status, and addressed a letter to the Collector and District Magistrate, Kurnool, the 1st respondent herein. Thereupon, proceedings under Section 5 of The Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993, for short "the Act", were initiated against the petitioner, and a show-cause notice in Form-VI was issued on 19.9.2005. The petitioner was required to appear before the District Level Scrutiny Committee on 6.10.2005, together with the supporting material.

Petitioner appeared before the Committee on 6.10.2005 and stated his case. On a

consideration of the same, the Committee reported that the case of the petitioner is not genuine. Taking the same into account, the 1st respondent passed an order, dated 26.11.2005, canceling the caste certificate issued to the petitioner on 15.11.2002. The same is challenged in this writ petition.

Learned Senior Counsel, Sri G.Gangaiah Naidu, submits that the 1st respondent did not follow the procedure prescribed under Section 5 of the Act, and the relevant Rules made thereunder. He contends that except referring to the confession said to have been put forward by the petitioner on 6.10.2005, the 1st respondent did not take any other aspect into account, nor made any reference to documentary evidence. He contends that the enquiry was reduced into an empty formality.

Learned Government Pleader for Social Welfare, on the other hand, submits that the petitioner can avail the remedy of appeal under Section 7(2) of the Act, and that the writ petition is not maintainable.

It is not in dispute that the Act provides for a regular appeal against an order canceling the caste certificate. There are instances, where writ petitions are entertained, without requiring the affected parties to avail the remedy of appeal, in case where the orders are passed by the authority, not vested with the jurisdiction, or where the principles of natural justice have been violated. Such circumstances do not exist in the instant case. Even assuming that the decision taken by the 1st respondent cannot be sustained on the given set of facts, it cannot constitute a ground for entertaining a writ petition, in this regard.

For the foregoing reasons, the writ petition is disposed of, leaving it open to the petitioner, to avail the remedy of appeal. The appellate authority shall entertain the appeal, in case, it is presented within a period of two weeks from today. The appeal shall also be disposed of, as early as possible, and not later than two months from the date of its presentation. There shall be no order as to costs.

22nd December 2005

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